

46 Am. Jur. 2d Judges § 130

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Judges

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IX. Disqualification to Act in Particular Case

B. Grounds for Disqualification

4. Bias or Prejudice as Grounds for Disqualification

a. Bias or Prejudice as Grounds for Disqualification, in General

§ 130. Effect of bringing action against judge as grounds for disqualification

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  49(1), 49(2)

A judge is not automatically disqualified solely because a litigant in a pending case before the judge has named that judge as a defendant in a separate action,¹ particularly where the party has demonstrated a pattern of filing lawsuits against judges assigned to his or her cases; if a court were to hold as a matter of law that a party could obtain a disqualification of a judge merely by filing suit against him or her, the orderly administration of judicial proceedings would be severely hampered and thwarted.² In the absence of genuine bias, a litigant should not be permitted to judge shop through the disqualification process.³

Similarly, a judge is not automatically disqualified solely because a party in a case pending before the judge files a complaint against the judge with a disciplinary counsel or a similar body; to hold otherwise would invite the filing of a misconduct complaint solely to obtain a judge's disqualification and would invite judge shopping.⁴

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Footnotes

- ¹ In re Disqualification of Kilpatrick, 47 Ohio St. 3d 605, 546 N.E.2d 929 (1989).
- ² In re Disqualification of Hunter, 36 Ohio St. 3d 607, 522 N.E.2d 461 (1988); State v. Brown, 177 W. Va. 633, 355 S.E.2d 614 (1987).
- ³ Los v. Los, 595 A.2d 381 (Del. 1991).

4 [Thomas v. State](#), 611 So. 2d 416 (Ala. Crim. App. 1992); [Czuprynski v. Bay Circuit Judge](#), 166 Mich. App. 118, 420 N.W.2d 141 (1988); [In re Disqualification of Kilpatrick](#), 47 Ohio St. 3d 605, 546 N.E.2d 929 (1989); [In re Antonio](#), 612 A.2d 650 (R.I. 1992).

The fact that an ex-husband had filed a complaint with the Committee on Judicial Responsibility and Disability was insufficient, without evidence of bias, to warrant the recusal of the judge in a case involving the modification of parental rights and responsibilities. [Robertson v. Gerakaris](#), 2015 ME 83, 119 A.3d 739 (Me. 2015), as corrected on other grounds, (Dec. 1, 2015).

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